

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 06-CV-10595
HON. GEORGE CARAM STEEH

PATRICK MCFADDEN,

Defendant.

_____ /

ORDER DENYING WITHOUT PREJUDICE
PLAINTIFF'S MOTION FOR SUBSTITUTED SERVICE (#2)

Plaintiff moves for substituted service to be made upon defendant Patrick McFadden, proffering a process server's verified statements that personal service was attempted three times, without success, upon defendant McFadden, at his home address of 650 Hidden Valley Club Drive, Apt. 113, Ann Arbor, Michigan, 48104. Service upon an individual situated within this federal judicial district may be effected pursuant to the law of Michigan. Fed. R. Civ. P. 4(e)(1). Michigan law provides that "[o]n a showing that service of process cannot reasonably be made as provided by this rule, the court may by order permit service of process to be made in any other manner reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard." M.C.R. 2.105(l)(1). Plaintiff seeks alternative service by means of mailing by first class mail and certified mail (return receipt requested), and also posting a copy of the summons and complaint to McFadden's residential door.

Plaintiff has not shown that service of process cannot be accomplished upon McFadden under M.C.R. 2.105(A)(2) by sending a summons and a copy of the complaint by registered or certified mail, return receipt requested, to the Ann Arbor address, with delivery restricted to McFadden.¹ Indeed, plaintiff requests such relief, with the additional condition of posting on McFadden's door. Plaintiff does not need a court order of alternative service to serve defendant McFadden under M.C.R. 2.105(A)(2). Fed. R. Civ. P. 4(e)(1). Accordingly,

Plaintiff's motion for substituted service is hereby DENIED without prejudice. Plaintiff may again move for alternate service on a showing that process cannot be accomplished under M.C.R. 2.105(A)(2).

SO ORDERED.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: April 10, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on April 10, 2006, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk

¹ The court notes plaintiff's proffer of a certified written statement of a Postal Representative that the mail of "Patrick McFadden" is delivered to 650 Hidden Valley Club Drive, Apt. 113, Ann Arbor, Michigan, 48104.